

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JOSHUA B. JURCICH,

Plaintiff,

v.

**MATT SPAELLER,
DETECTIVE KANTZLER,
and OFFICE PONCE,**

Defendants.

No. 09-0508-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court are two motions filed by Jurcich (Docs. 20 & 24).

First is Jurcich's motion for reconsideration to proceed in forma paupers (Doc. 20).

Jurcich's motion states that his funds are limited and that he will be able to pay in the future after his release in February 2011. It is hard to discern from Jurcich's pleading exactly what type of relief he is seeking. On March 3, 2010, the Court granted Jurcich leave to proceed in forma pauperis in this case (Doc. 6).¹ On April 19, 2010, the Court dismissed Jurcich's case for failure to comply with the Court's prior Order and entered Judgment reflecting the same (Docs. 14 & 15). Thereafter, the Court granted Jurcich's motion to reconsider, vacated its previous Order and Judgment dismissing the case and reinstated Jurcich's case on June 4, 2010 (Doc. 18).

¹At that time, the Court calculated and assessed an initial fee of \$12.07 as required by 28 U.S.C. § 1915. **See Robbins v. Switzer, 104 F.3d 895, 897-98 (7th Cir. 1997).**

Under 28 U.S.C. § 1915, when a prisoner files a complaint or an appeal in a civil lawsuit, a court is *required* to assess and, when funds exist, to collect, as a partial payment of any court fees required by law, an initial partial filing fee of twenty percent of the greater of: (1) the average monthly deposits to the prisoner's account; or (2) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint or notice of appeal. **See 28 U.S.C. § 1915(b)(1); Robbins, 104 F.3d at 897.** After payment of the initial partial filing fee, a prisoner is required to make monthly payments of twenty percent of the preceding month's income credited to the prisoner's account. **See 28 U.S.C. § 1915(b)(2); Lucien v. DeTella, 141 F.3d 773, 776 (7th Cir. 1998).** The agency having custody of a prisoner must forward payments from the prisoner's account to the clerk of the court each time the amount in the prisoner's account exceeds ten dollars until the filing fees are paid. **See 28 U.S.C. § 1915(b); Hall v. Stone, 170 F.3d 706, 707-08 (7th Cir. 1999).** Basically, granting a prisoner's request to proceed in forma pauperis means that the inmate must pay the full filing fee, but may benefit from procedures whereby he will be permitted to pay the fee in installments from his prison trust account. **28 U.S.C. § 1915(b).** Clearly, Jurcich cannot be excused from the statutory requirement of an paying the full filing fee. Thus, the Court **DENIES** the motion for reconsideration to proceed in forma pauperis (Doc. 20).

Likewise, the Court finds that Jurcich's July 19, 2010 pleading titled

“Amend and Update” (Doc. 24) confusing. In this pleading he asks to amend and update his “statement in responding to, ANSWER and AFFIRMATIVE DEFENSES to PLAINTIFFS [sic] COMPLAINT, that was filed on July 8, 2010” A review of the record indicates that Jurcich has not filed a response to Defendants’ answer and affirmative defenses, so there is nothing for Jurcich to amend. Thus, the Court **DENIES** this pleading as well.

IT IS SO ORDERED.

Signed this 21st day of July, 2010.

/s/ David R Herndon

**Chief Judge
United States District Court**